MV 96-6

Tax Type: MOTOR VEHICLE USE TAX

Issue: Private Vehicle Use Tax - Value Exceeds \$15,000

STATE OF ILLINOIS

DEPARTMENT OF REVENUE

OFFICE OF ADMINISTRATIVE HEARINGS

CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS	) )
	) DOCKET #
V.	) ACCT. #
TAXPAYER,	) Alfred M. Walter
	) Administrative Law Judge
Taxpayer	

## RECOMMENDATION FOR DISPOSITION

## Synopsis:

This matter comes on for hearing pursuant to the taxpayer's timely protest of Notice of Liability and Correction of Return issued by the Department on December 8, 1995, for Use Tax on the purchase of a 1991 Toyota Landcruiser. At issue are the questions: 1) whether the liability established herein is proper, considering the value of the vehicle, and 2) did the taxpayer rebut the Department's prima facie case. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department on both issues.

## Findings of Fact:

- 1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Correction of Returns, showing a total liability due and owing in the amount of \$591.86. Dept. Ex. No. 1
- 2. The taxpayer testified that he did not receive a Bill of Sale; that he could not contact the seller; that he paid cash for the car; that he did not

get a receipt for his money; that he accepted title to the vehicle in lieu of a receipt. Tr. pp. 5-16

3. Other than his oral testimony the taxpayer produced no documentation or records to substantiate what he claimed he paid for the vehicle.

4. The Department valued the vehicle, a 1991 Toyota Landcruiser at a higher price than testified to by the taxpayer.

## Conclusions of Law:

In the absence of documentation in the nature of a cancelled check, withdrawal slip from a bank account or Bill of Sale, I do not find this taxpayer's testimony credible.

On examination of the record established, this taxpayer has failed to demonstrate by the presentation of testimony, or through exhibits or argument, evidence sufficient to overcome the Department's prima facie case of tax liability under the assessment in question. Accordingly, by such failure, the determination by the Department that this taxpayer is subject to a higher rate of tax as imposed by the Illinois Use Tax Act must stand as a matte of law.

I recommend that the Department's Notice of Tax Liability, issued on December 8, 1995, be affirmed in its entirety.

Alfred M. Walter Administrative Law Judge